

BEST AVAILABLE COPY



Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILED DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/792,468	01/31/97	SHIMIZU	C 940498

B5M1/0115
ARMSTRONG WESTERMAN HATTORI MCLELAND
& NAUGHTON
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

EXAMINER

LEE, M

ART UNIT	PAPER NUMBER
----------	--------------

2514

19

DATE MAILED: 01/15/98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on 11/26/97 (AUT)
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11,453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 13-37 is/are pending in the application.
- ☐ Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 13-37 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s): _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

Part III DETAILED ACTION

1. Receipt is acknowledged of the Amendment filed 26 November 1997.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 13-23 drawn to the apparatus, and method claims 27-30 and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins (US 5,149,947, of the record) in view of Gogulski (US 4,071,740, of the record).

Collins teaches a portable check-out system comprising a purchased commodity accommodating and transporting apparatus/cart 50 (see figs. 3-5; and col. 3, lines 46-49) comprising scanning terminal 44

1 (see figs. 3-5; and col. 3, lines 46+); an accommodation section (see figs. 3-5); a magnetic card reading
2 section [88, 90] (see figs. 3-5; and col. 4, lines 3-8); a commodity price retrieval section [102, 104] (see
3 fig. 7; and col. 4, lines 30+); and a management section 110 which communicates with a purchased
4 commodity accommodating and transporting apparatus/cart via wireless communication (see col. 4, lines
5 37+). Although, Collins is silent with respect to the "automatic clearing processing section for
6 automatically clearing the amount of money corresponding to the price of the commodity retrieved by said
7 commodity price retrieval section from an account corresponding to the magnetic information of the card
8 read by said magnetic card reading section ...", it is clearly inherent and anticipated by Collins to
9 accomplish the above task/validation of the credit card account upon completion of the purchase.

10 Re claims 13, 22, 29, 35, and 37: Although, Collins shows and discloses that the above elements
11 and the means are **fixed/attached** to the purchased commodity accommodating and transporting
12 apparatus/cart 50 (see fig. 5, and col. 3, lines 46+), he is silent with respect to the above elements and the
13 means are **PERMANENTLY** fixed/attached to the purchase commodity accommodating and transporting
14 apparatus/cart.

15 Gogulski teaches mobile shopping cart 10 comprising scanner 26, control panel 12, receipt
16 dispenser 31, etc., whereby the above electronics, a scanner, etc. are permanently fixed/attached to the
17 mobile shopping cart (see figs. 1-2; col. 5, lines 4+, specifically lines 6-11). In view of Gogulski's
18 teaching, it would have been obvious to an artisan at the time the invention was made to employ the
19 notoriously old and well known means for permanently attaching the electronics, the scanner, etc. to the
20 teachings of Collins in order to deter the theft and prevent any accidental damages (in the event the
21 operator accidentally drops or mishandles the above electronics, a scanner, etc.) of the removable
22 electronics, the scanner, etc. as taught by Collins. Furthermore, such modification would have been an

1 obvious matter of design choice, failing to provide any unexpected results, well within the ordinary skill in
2 the art. Moreover, due to lack of criticality, the alteration as discussed above is not seen to be patentably
3 distinct over the teachings of Collins.

4 Re claims 13-15, 23, and 34: Although, Collins as modified by Gogulski fail to show or disclose a
5 "prepaid card inputting processing section ... reading remains information of the prepaid card" as recited
6 in claims 13 and 23; "debit card scanner" as recited in claim 34; "a notification section for notifying,
7 when the remains read by said prepaid card ... shortage" as recited in claim 14; and "a selection section
8 for selecting ... inserting a second prepaid card ... purchasing processing is to be ended" as recited in
9 claim 15, it would have been obvious to an artisan at the time the invention was made to substitute the
10 credit card system as taught by Collins as modified by Gogulski with a notoriously old and well known
11 prepaid card and/or debit card system due to the fact that the credit card, the prepaid card, and debit card
12 are art recognized equivalent and/or substitution of equivalents. Furthermore, with respect to the "reading
13 remains ... prepaid card", "notification section ...", and "selection section ... inserting a second prepaid
14 card", one of ordinary skill in the art would have recognized that such practices as discussed above are
15 commonly practiced in the prior art systems (e.g., Metro fare cards are believed to be a prepaid cards
16 whereby the Metro fare card system clearly practices the above practices and/or procedures). Thus, in
17 view of the commonly known practices/procedures, as discussed above, it would have been obvious to an
18 artisan at the time the invention was made to incorporate such conventional practices/procedures to the
19 teachings of Collins as modified by Gogulski because such incorporation would have constituted an obvious
20 expedient well within the ordinary skill in the art.

21 Re claims 16-18: As to the "receipt issuance section", Collins discloses a printer 84 which issues
22 a receipt 86 (see col. 3, lines 67+; and col. 4, lines 51-52).

1 Re claims 19-21: With regard to "receipt issuance selection section for selecting whether the
2 issuance of a receipt by said receipt issuance section is necessary or unnecessary", it would have been
3 obvious to an artisan at the time the invention was made to incorporate such receipt issuance selection
4 section to the teachings of Collins as modified by Gogulski due to the fact that it is notoriously old and well
5 known in the prior art systems, such as retail stores, grocery stores, etc., whereby the vendee can
6 specifically request to the vendor to either provide him/her (i.e., the vendee) with a receipt of the
7 purchases made or to discard it. Since, Collins discloses a stand-alone credit card check-out system and
8 the printer for printing the receipt, in view of the conventional procedures as discussed above, one of
9 ordinary skill in the art would have contemplated that one (i.e., the vendee) may or may not wish to
10 receive a receipt upon completion of the transaction, and therefore, to incorporate the receipt issuance
11 selection section would have constituted an obvious expedient well within the ordinary skill in the art.

12 Re claims 27-28 and 35: As to "selecting a commodity at a first selection site, reading a
13 commodity code of the first commodity at the first selection site and paying for the first commodity at the
14 first selection site using a payment processor attached to the transportable container" as set forth in claims
15 27-28; and "selecting and placing a plurality of commodities in a transportable container, and paying for
16 all commodities selected using a computer section attached to the transportable container" as set forth in
17 claim 35. It would have been obvious to an artisan at the time the invention was made to incorporate such
18 scheme and/or the procedure, as discussed above, to the teachings of Collins as modified by Gogulski due
19 to the fact that it is notoriously old and well known in the prior art systems, such as retail stores, grocery
20 stores, etc., whereby the vendee can select a single item/commodity or a plurality of items/commodities
21 and make payments thereof in a known manner. Since, Collins as modified by Gogulski discloses a stand-
22 alone credit card check-out system (i.e., a mobile shopping cart), in view of the conventional procedures

1 as discussed above, one of ordinary skill in the art would have contemplated that the vendee may choose to
2 either pay for a single item/commodity at a time or to pay for a plurality of items/commodities in a batch
3 mode, and therefore, to incorporate such scheme and/or procedure would have constituted an obvious
4 expedient well within the ordinary skill in the art.

5 4. Claims 24-26 drawn to the apparatus are rejected under 35 U.S.C. 103(a) as being unpatentable
6 over Collins as modified by Gogulski as applied to claims 13 and 22 above, and further in view of Ehrat
7 (US 3,836,755, of the record). The teachings of Collins as modified by Gogulski have been discussed
8 above.

9 Collins as modified by Gogulski fail to show or teach "a data reception section for receiving data
10 from a management section, and a power on/off drive section ..." as recited in claim 24; and "a weighing
11 equipment for measuring the total weight of commodities ... detecting the variation of the total weight of
12 the commodities .. , and alarm generation section ..." as recited in claims 25 and 26.

13 Ehrat teaches a purchasing trolley 2, comprises a reading means 24; a goods basket 18; weighing
14 pan of scales 182; signaling means [SE₁, SE₂]; a purchasing container electronic system 91 to determine
15 whether the data of the data support were correctly read and whether the weight increase measured by the
16 scales coincides within specific limits with the weight data on the data support or whether placing the
17 article into the goods basket was accompanied by a weight increase; an error recognition circuit and
18 transmission section (see col 6, line 13 through col. 7, line 9); weight comparison section 42; weight store
19 [38, 39]; output 95 for off-line operation and output S for on-line operation; check-out station 4 (i.e., POS
20 terminal) having a panel/display [4c, 4i]; and a computer 93 which is capable of transmitting/receiving
21 data from the purchasing trolley, and furthermore, the computer 93 includes the means for enabling and/or
22 disabling the trolley via communication means (see col. 19, lines 58+). See figures 1-5, 13, and 23;

1 abstract; col. 1, lines 5-18; col. 1, line 47 through col. 2, line 21; col. 3, line 15 through col. 4, line 63;
2 col. 6, line 13 through col. 7, line 62; col. 14, lines 4-57; col. 16, lines 38-64; and col. 18, line 1 through
3 col. 19, line 38.

4 In view of Ehrat's teaching, it would have been obvious to an artisan at the time the invention was
5 made to integrate notoriously old and well known scale/weighing equipment and the means for
6 enabling/disabling the trolley to the teachings of Collins as modified by Gogulski for greater security
7 purposes and a more versatile system (i.e., the modified stand-alone system will inherently measure and
8 monitor (i.e., without the aide of a plurality of personnel) when each article is read-in so that fraudulent
9 manipulations are practically eliminated).

10 5. Claim 31 drawn to the method is rejected under 35 U.S.C. 103(a) as being unpatentable over
11 Collins as modified by Gogulski as applied to claim 27 above, and further in view of Hehemann (DT
12 2,139,889, of the record). The teachings of Collins as modified by Gogulski have been discussed above.

13 Collins as modified by Gogulski fail to show or teach that the "transportable container is a hand
14 carried basket".

15 Hehemann teaches a purchased commodity accommodating and transporting apparatus whereby
16 the transportable container is a hand carried basket (see the English abstract; and figure 2). In view of
17 Hehemann's teaching, it would have been obvious to an artisan at the time the invention was made to
18 substitute the transporting cart/trolley as taught by Collins as modified by Gogulski with a notoriously old
19 and well known transporting basket due to the fact that the cart/trolley and the basket are art recognized
20 equivalent and/or substitution of equivalents for transporting goods. Accordingly, due to lack of criticality,
21 the transportable basket as set forth in claim 31 is not seen to patentably distinct over the teaching of
22 Collins as modified by Gogulski (i.e., transportable cart/trolley).

Response to Arguments

6. Applicant's arguments with respect to claims 13-37 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Michael G. Lee** whose telephone number is (703) 305-3503. The examiner can normally be reached between the hours of 6:30AM to 4:00PM Monday thru Thursday and every other Friday (first Friday of the bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald T. Hajec, can be reached on (703) 308-4075. The fax phone number for this Group is (703) 308-7723.

1 Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132
2 or which otherwise require a signature, may be used by the applicant and should be addressed to
3 [don.hajec@uspto.gov].

4 All Internet e-mail communications will be made of record in the application file. PTO employees
5 do not engage in Internet communications where there exists a possibility that sensitive information could be
6 identified or exchanged unless the record includes a properly signed express waiver of the confidentiality
7 requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published
8 in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

9 Any inquiry of a general nature or relating to the status of this application or proceeding should be
10 directed to the Group receptionist whose telephone number is (703) 308-0956.

11
12 
13 Michael G. Lee

14 January 09, 1998


DONALD T. HAJEC
SUPERVISORY PATENT EXAMINER
GROUP 2500